

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Caleb Kleppner,
New Haven

File No. 2010-002D &
File No. 2013-031NF

AGREEMENT CONTAINING A CONSENT ORDER

The parties, Hector Rivera, of the Town of Marriottsville, State of Maryland, hereinafter referred to as the Respondent, and the undersigned authorized representative of the State Elections Enforcement Commission enter into this agreement as authorized by Connecticut General Statutes § 4-177 (c) and Regulations of Connecticut State Agencies § 9-7b-54. In accordance with those provisions, the parties agree that:

1. Complainant Kleppner filed this complaint with the Commission on January 8, 2010. The complaint alleged that a candidate committee for John DeStefano, which was created for the 2009 New Haven mayoral election, had received unreported and excessive in-kind contributions from Elm & Oak PAC, a New Haven-based political committee.
2. In addition to the Kleppner complaint, the Commission also initiated enforcement actions against Respondent for failing to file mandatory campaign finance disclosure statements. *See* File No. 2013-031NF.
3. Respondent was registered as treasurer of the Elm & Oak PAC political committee in October 2009 and remains in that role. *See* SEEC Form 3 – Political Committee (PAC) Registration (Elm & Oak PAC, Rec'd October 7, 2009) (amending committee registration to reflect appointment of Rivera as treasurer for Elm & Oak PAC).
4. General Statutes § 9-606 requires a campaign treasurer to perform certain duties, including:
 - (1) depositing, receiving and reporting all contributions and other funds in the manner specified in section 9-608, (2) making and reporting expenditures, (3) reporting expenses incurred but not yet paid, (4) filing the statements required

under section 9-608, and (5) keeping internal records of each entry made on such statements.

General Statutes § 9-606 (2012).

5. General Statutes § 9-608 (c) (2) requires campaign treasurers to report expenditures that the committees they serve as treasurers make. Specifically, § 9-608 (c) (2) requires treasurers to include in their reports to the Commission:

(C) an itemized accounting of each expenditure, if any, including the full name and complete address of each payee, including secondary payees whenever the primary or principal payee is known to include charges which the primary payee has already paid or will pay directly to another person, vendor or entity, the amount and the purpose of the expenditure, the candidate supported or opposed by the expenditure, whether the expenditure is made independently of the candidate supported or is an in-kind contribution to the candidate, and a statement of the balance on hand or deficit, as the case may be;

Section 9-608 (c) (2) (C).

6. Respondent maintains that even though he was the appointed campaign treasurer, he left most, if not all, of the campaign treasurer duties to a bookkeeper who accepted and deposited contributions, signed checks for expenditures, and prepared and filed reports of the committee with the Commission.
7. Respondent also denies knowing that the campaign treasurer's duties, in part, could not be delegated to a bookkeeper experienced in campaign finance laws and regulations.
8. By failing to exercise appropriate controls over the *Elm & Oak PAC* political committee, including authorizing all expenditures of the committee, Respondent violated General Statutes § 9-606 (a).

9. The Commission finds that the respondent also failed to report in-kind contributions made to a candidate committee properly, principally *DeStefano for Mayor*, during the 2009 mayoral election.
10. The Commission finds that the reports should have reflected that certain expenditures made by *Elm & Oak PAC* benefitted candidate John DeStefano or that they were “in-kind contributions” to the *DeStefano for Mayor* candidate committee. Section 9-608 also requires a campaign treasurer to indicate whether an expenditure was made independently or in coordination with the candidate. By omitting those details from the reports filed with the Commission, Respondent violated General Statutes § 9-608 (c) (2).
11. As the named treasurer for *Elm & Oak PAC*, Respondent remains responsible for filing the periodic campaign disclosure reports that the committee must file on a quarterly basis. See General Statutes § 9-608 (a) (1) (requiring political committees to file campaign finance disclosure statements each quarter).
12. The last campaign finance disclosure statement filed on behalf of *Elm & Oak PAC* was received on November 2, 2012. See SEEC Form 20 – Itemized Campaign Finance Disclosure Statement (*Elm & Oak PAC*, Nov. 2, 2012) (filing for “7th Day Preceding General Election”).
13. The Commission has received no filings from the committee since November 2012, meaning that the committee has missed six filing deadlines, specifically those reports due on January 10, 2013; April 10, 2013; July 10, 2013; October 10, 2013; January 10, 2014; and April 10, 2014.
14. General Statutes § 9-623 imposes a \$100 mandatory fee on treasurers who fail to submit the required quarterly filings. See General Statutes § 9-623 (b) (1) (“If any campaign treasurer fails to file any statement required by section 9-608, ... within the time required, the campaign treasurer ... shall pay a late filing fee of one hundred dollars.”)
15. Respondent admits all jurisdictional facts and agree that this Agreement and Order shall have the same force and effect as a final decision and order entered into after a full hearing and shall become final when adopted by the Commission.

16. The Respondent waives:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, separately stated; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered into pursuant to this Agreement.

17. Upon the Respondent's agreement to comply with the Order hereinafter stated, the Commission shall not initiate any further proceedings against him concerning this matter.

18. It is understood and agreed by the parties to this Agreement that the Commission will consider this Agreement at its next meeting and, if the Commission rejects it, the Agreement will be withdrawn and may not be used as an admission by the Respondent in any subsequent hearing, if one becomes necessary.

ORDER

IT IS HEREBY ORDERED THAT Respondent pay a civil penalty of \$900 for violating General Statutes §§ 9-606 and 9-608 and further agree henceforth to comply strictly with the requirements of General Statutes §§ 9-606 and 9-608.

IT IS HEREBY ALSO ORDERED THAT the Respondent, who remains campaign treasurer for *Elm & Oak PAC*, shall participate in the dissolution of the political committee and transfer any remaining funds in the political committee's bank accounts to the Connecticut State Treasurer.

IT IS HEREBY ALSO ORDERED THAT this Consent Agreement shall resolve any other cases currently pending against Respondent related to his role with Elm & Oak PAC, specifically File No. 2013-031NF as well as other non-filer matters, and the Respondent shall pay \$600 in mandatory fees related to the filings that he failed to file with the Commission as the committee's treasurer.

The Respondent

By: 

Hector Rivera
2094 Saint James Road
Marriottsville, MD 21104-1435

For the State of Connecticut

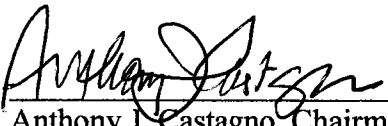
By: 

Michael J. Brandi, Esq.
Executive Director and General Counsel
and Authorized Representative of the
State Elections Enforcement Commission
20 Trinity St., Suite 101
Hartford, CT 06106

Dated: 4/24/14

Dated: 5/27/14

Adopted this 18th day of June 2014 at Hartford, Connecticut by vote of the Commission.


Anthony J. Castagno, Chairman
By Order of the Commission